

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE - W/S Towson Ave., 25' N of the c/l of Jackson Rd. (1918 Towson Avenue) 9th Election District 4th Councilmanic District

• BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

• Case No. 94-237-SPHA

Konstantinos Axiotis, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as Petitions for Special Hearing and Variance filed by the owners of the subject property, Konstantinos and Charlotte Axiotis. The Petitioners request a special hearing to approve an existing basement apartment and the proposed enclosure of an existing 11' x 10'7" patio (11' x 10'8" as shown on the site plan submitted) attached to the rear of the dwelling to create an interior entrance for said apartment. In addition, the Petitioners seek variance relief from Sections 1B02.3.C.1 and 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a rear yard setback of 17'4" in lieu of the required 30' for the proposed patio enclosure and an existing enclosed stairway, and to permit an existing patio located in the rear yard to have a setback of 7' in lieu of the minimum required 12.5'. The relief requested is more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were Konstantinos Axiotis, legal owner, and John Sarikas. There were no Protestants at the hearing.

Testimony indicated that the subject property, known as 1918 Towson Avenue, consists of 3,810 sq.ft., zoned D.R. 16 and is improved with a single family end-of-group townhouse dwelling unit and attached concrete patios of 11' x 10'8" and 17'4" x 23'2", respectively, as shown on the site plan submitted as Petitioner's Exhibit 1. The Petitioners were

advised to file the instant Petitions upon receipt of a zoning violation notice from the Zoning Administration and Development Management (ZADM) office concerning a basement apartment and the 17'4" x 23'2" patio to the rear of the property. Testimony revealed that the Petitioners recently finished off their basement to provide separate living quarters for Mrs. Axiotis' mother who plans to move to this country from Germany at some point in the near future. The Petitioner also removed the interior stairway which leads from the main dwelling to the basement and partially enclosed the outside stairway leading to the basement on the rear of the dwelling facing Towson Avenue to provide a separate entrance and more privacy for his mother-in-law. Mr. Axiotis testified that there is no kitchen in the basement as his mother-in-law will be eating her meals with his family. Photographs of the subject dwelling and adjoining properties show that many of the Petitioners' neighbors have enclosed this outside stairway leading to the basement in their homes.

As to the special hearing relief requested to approve living quarters in the basement, it appears in all respects that the Petitioner has attempted to construct an apartment in his dwelling. Mr. Axiotis testified that until his mother-in-law is able to move in with them, he has leased the basement to a lady and collects rent from her for the use of this area. However, Mr. Axiotis stated that this was only a temporary situation which would cease to exist once his mother-in-law arrives. He further stated that there are no cooking facilities in the basement.

Based upon the testimony and evidence presented, it does not appear that the living quarters in the basement of the subject dwelling constitute its use as a two-family dwelling unit. It appears that what the Petitioners have done is taken in a boarder. As long as the basement

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area is not improved with a kitchen or cooking facilities, the situation shall be permitted to remain. Therefore, the special hearing relief sought is not necessary inasmuch as the basement living quarters, as proposed, technically do not qualify as a second apartment, or a second dwelling unit. However, the Petitioners are prohibited from installing a kitchen or cooking facilities in the basement at any future time.

As to the variance relief sought, the Petitioners propose to enclose an existing 11' x 10'8" patio on the rear of the dwelling and creating a new main entrance on Towson Avenue. The Petitioners currently receive all deliveries at the Jackson Avenue entrance. The remaining variance relief is being requested to legalize existing conditions on the property.

As to the variance requested for the outside stairway enclosure, it appears from the photographs submitted that this stairway enclosure is in character and conformity with the other stairway enclosures in the immediate vicinity and should be permitted to remain. However, the photographs reveal that the sides of this stairway enclosure have been finished with parged block while the other enclosed stairways have been covered with vinyl siding to match the respective dwelling. Therefore, as a condition of the relief granted, the Petitioners shall be required to finish off the outer walls of this stairway enclosure with vinyl siding to match the dwelling to be more in keeping with the others in the neighborhood.

The Petitioners also seek a variance to permit the enclosure of the attached 11' x 10'8" concrete patio to the rear of the dwelling adjacent to the enclosed stairway to create a new main entrance. From the photographs submitted, it appears that enclosing this patio would be out of character and conformity with the other townhomes in this group. Therefore,

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the special hearing and variance relief sought to enclose that patio shall be denied.

As to the variance relief sought for the 17'4" x 23'2" patio to the rear of the subject site, that patio is located approximately 14 inches above grade. Inasmuch as this patio is existing and does not appear to impose upon the neighbors, I will grant the variance requested for same. However, the Petitioners are prohibited from placing any improvements on this patio, or enclosing this patio in any manner.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his party. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the special hearing relief and variances, as approved herein, are not

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granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of these requests and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not result in any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special hearing and variances shall be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 7th day of February, 1994 that the Petition for Special Hearing to approve an existing basement apartment, in accordance with Petitioner's Exhibit 1, be and is hereby DISMISSED AS MOOT, inasmuch as the existing improvements contained within the basement do not constitute a second dwelling; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 1B02.3.C.1 and 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing enclosed stairway, and to permit an existing patio located in the rear yard with a setback of 7' in lieu of the minimum required 12.5', in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) The Petitioners shall not allow or cause the basement living quarters to be converted to a second

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dwelling unit and/or apartments. There shall be no kitchen or cooking facilities in the basement.

- 3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order in the event it becomes necessary to do so as a result of a complaint.
- 4) There shall be no enclosure of nor any improvements made to either the 17'4" x 23'2" patio in the rear yard or the 11' x 10'8" patio as they are shown on the site plan.
- 5) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Special Hearing to approve the proposed enclosure of an existing 11' x 10'7" (11' x 10'8" as shown on Petitioner's Exhibit 1) patio attached to the rear of the dwelling to create an interior entrance for said apartment, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Sections 1B02.3.C.1 and 301.1.A of the B.C.Z.R. to permit a rear yard setback of 17'4" in lieu of the required 30' for the proposed patio enclosure, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

TMK:bjs

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

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Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

February 7, 1994

(410) 887-4386

Mr. & Mrs. Konstantinos Axiotis
1918 Towson Avenue
Baltimore, Maryland 21224

RE: PETITIONS FOR SPECIAL HEARING & VARIANCE
W/S Towson Avenue, 25' N of the c/l of Jackson Road
(1918 Towson Avenue)
9th Election District - 4th Councilmanic District
Konstantinos Axiotis, et ux - Petitioners
Case No. 94-237-SPHA

Dear Mr. & Mrs. Axiotis:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been granted in part and denied in part in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,
Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs
cc: People's Counsel
File

Petition for Special Hearing to the Zoning Commissioner of Baltimore County

for the property located at 1918 Towson Ave.
which is presently zoned DR-16
94-237-SPHA

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve The existing basement was finished and the interior stairway to the basement was removed so that my mother-in-law could live with us and have some privacy. No oven was installed as she will be eating meals with us. Her arrival was delayed so we temporarily rented it out as we had no money for health insurance. When she arrives we propose to create an interior entrance to the house by enclosing the existing 11'0" x 10'7" patio outside the sliding door and creating our main entrance on Towson Ave. to match our address. Presently deliveries are made difficult and confusing since our entrance is on Jackson Ave.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Legal Owner(s)
Name (Print Name)
Signature
Address
City State Zipcode

Attorney for Petitioners
Name (Print Name)
Signature
Address
City State Zipcode

ESTIMATED LENGTH OF HEARING
The following date: _____
ALL OTHER: _____
REVIEWED BY: RT DATE: 12-7-93
172-117-233



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 94-237-SPHA

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

John Contestabile, Chief
Engineering Access Permits
Division

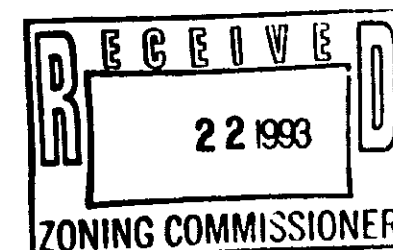
BS

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: 1918 Towson Avenue

DATE: December 22, 1993



INFORMATION:

Item Number: 233 (94-237-SPHA)

Petitioner: Konstantinos Axiotis

Zoning: DR-16

SUMMARY OF RECOMMENDATIONS:

Based upon the information provided staff offers the following comments.

As a patio is not a structure and no setback is required for either a driveway or a sidewalk, staff questions the need for the portion of the variance regarding the existing patio. Since this issue must be addressed occasionally, an interpretation by the Zoning Commissioner regarding the question of whether or not a patio needs to meet setback requirements would be instructive.

Staff does not oppose the applicant's request; however, the following condition is recommended:

If constructed, the proposed foyer should be architecturally compatible with the existing dwelling

Prepared by: Jeffrey M. Long

Division Chief: Caryl Kerns

PK/JL:lw

ZAC.233/PZONE/ZAC1

Pg. 1

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: KONSTANTINOS AXIOTIS & CHARLOTTE AXIOTIS

Location: NWC JACKSON RD. AND TOWSON AVE. (1919 TOWSON AVE.)

Item No.: 233 (RT)

Zoning Agenda: SPECIAL HEARING

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Prevention, PHONE 887-4881, MS-1102F

cc: File

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Carl W. Richards
Zoning Coordinator

December 14, 1993

FROM: James H. Thompson -LJW
Zoning Enforcement Coordinator

RE: Item No. 233
Petitioner: AXIOTIS KONSTANTINOS

VIOLATION CASE # C-94-604

LOCATION OF VIOLATION 1918 TOWSON AVENUE

DEPENDANT MR. & MRS. KONSTANTINOS

ADDRESS 1918 TOWSON AVENUE

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME & ADDRESS

L. WASILEWSKI
ZONING ENFORCEMENT

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.



Zoning
Enforcement

Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-4500

CORRECTION NOTICE

MAP NUMBER C-94-604 ELECTION DISTRICT: 12

LOCATION: 1918 TOWSON AVENUE
OWNERS: KONSTANTINOS & CHARLOTTE AXIOTIS

YEAR PROPERTY OWNERS/OCCUPANTS:

PLEASE BE ADVISED THAT AN INSPECTION OF THE ABOVE REFERENCED

LOCATION REVEALED THAT THERE IS AN APPARENT VIOLATION AND THE FOLLOWING CORRECTION IS REQUIRED:

RECONVERT YOUR HOUSE BACK TO A SINGLE FAMILY DWELLING BY REMOVING THE BASEMENT APARTMENT.

REMOVE ALL ABOVE GRADE OPEN PROJECTIONS THAT PROTRUDE INTO THE REQUIRED REAR YARD SET BACK MORE THAN PERMITTED 25% OR FILE FOR A VARIANCE (PUBLIC HEARING) IN ROOM 109 OF THE BALTIMORE COUNTY OFFICE BUILDING. (887-3191)

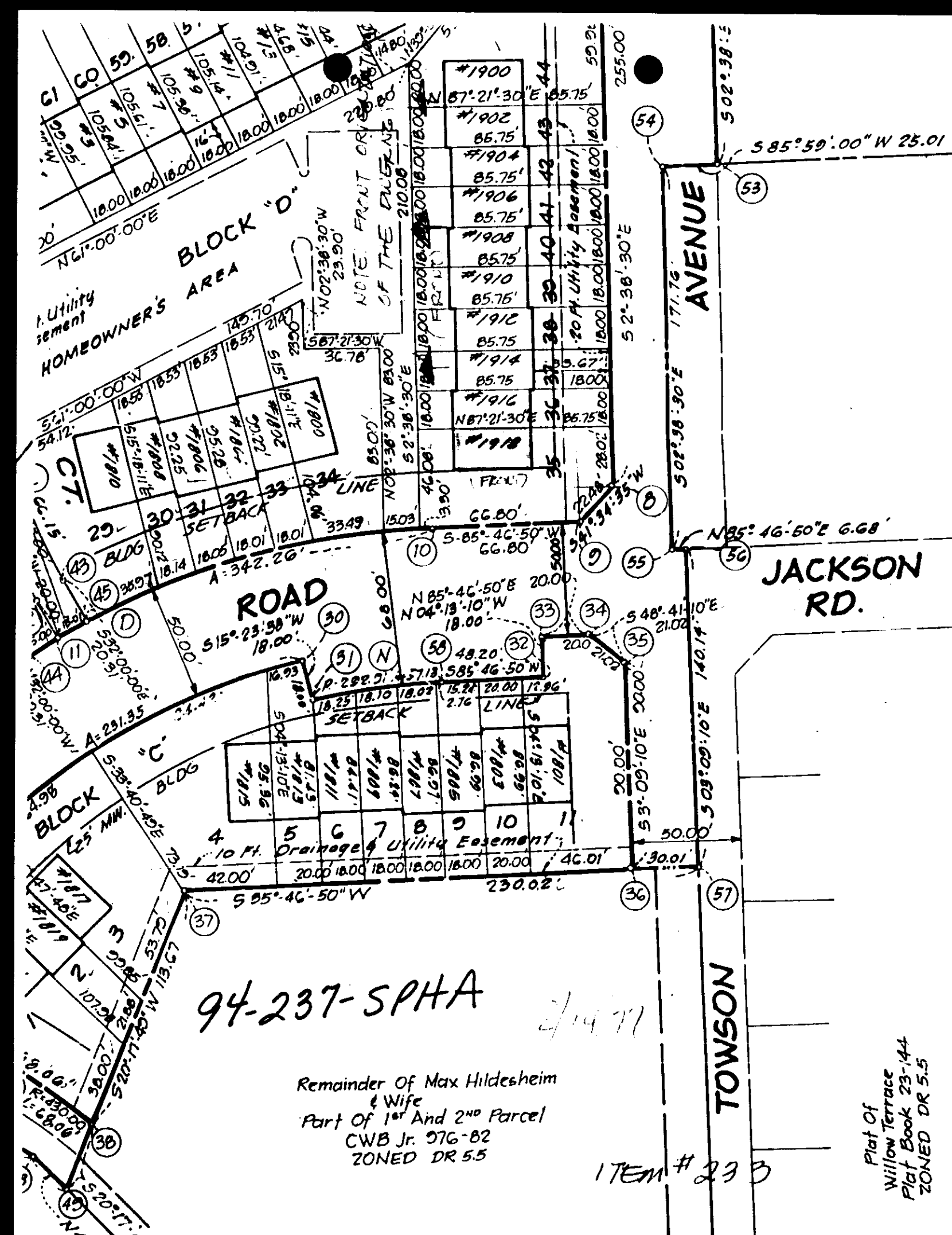
PLEASE NOTE: BALTIMORE COUNTY CONSIDERS YOUR REAR YARD TO BE ON TOWSON AVENUE.

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CONTACT THIS OFFICE AT 687-5681. FAILURE TO COMPLY BY DECEMBER 5, 1993 WILL RESULT IN THE ISSUANCE OF A CITATION WHEREIN YOU ARE SUBJECT TO A CIVIL PENALTY OF \$200.00 FOR EACH VIOLATION, AND EACH DAY SHALL BE CONSIDERED A SEPARATE VIOLATION (CIVIL PENALTY BILL #132-85).

INSPECTOR: WASILEWSKI

December 14, 1993

111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204



E.H.K., JR. 42 FOLIO 96

Filed for record
MAR 21 1978

RECORD PLAT

DUNSHIRE TOWNHOUSES

AMENDED PLAT OF A PORTION OF DUNSHIRE GARDEN APARTMENTS
D.T. # 39/88
12TH ELECTION DISTRICT
SCALE: 1"=50'
BALTIMORE CO. MARYLAND
DATE: MARCH 28, 1977

SURVEY BASED ON BALTO. CO. TRANSVERSE STATIONS X-3725 5.10224.71 E 202.04.02
AND X-3726 5.10074.03 E 250.15.62 OUTLINE TAKEN FROM FIELD SURVEY BY
MULLER RAPHAEL & ASSOC. DATED DEC. 22, 1967

NOTE:

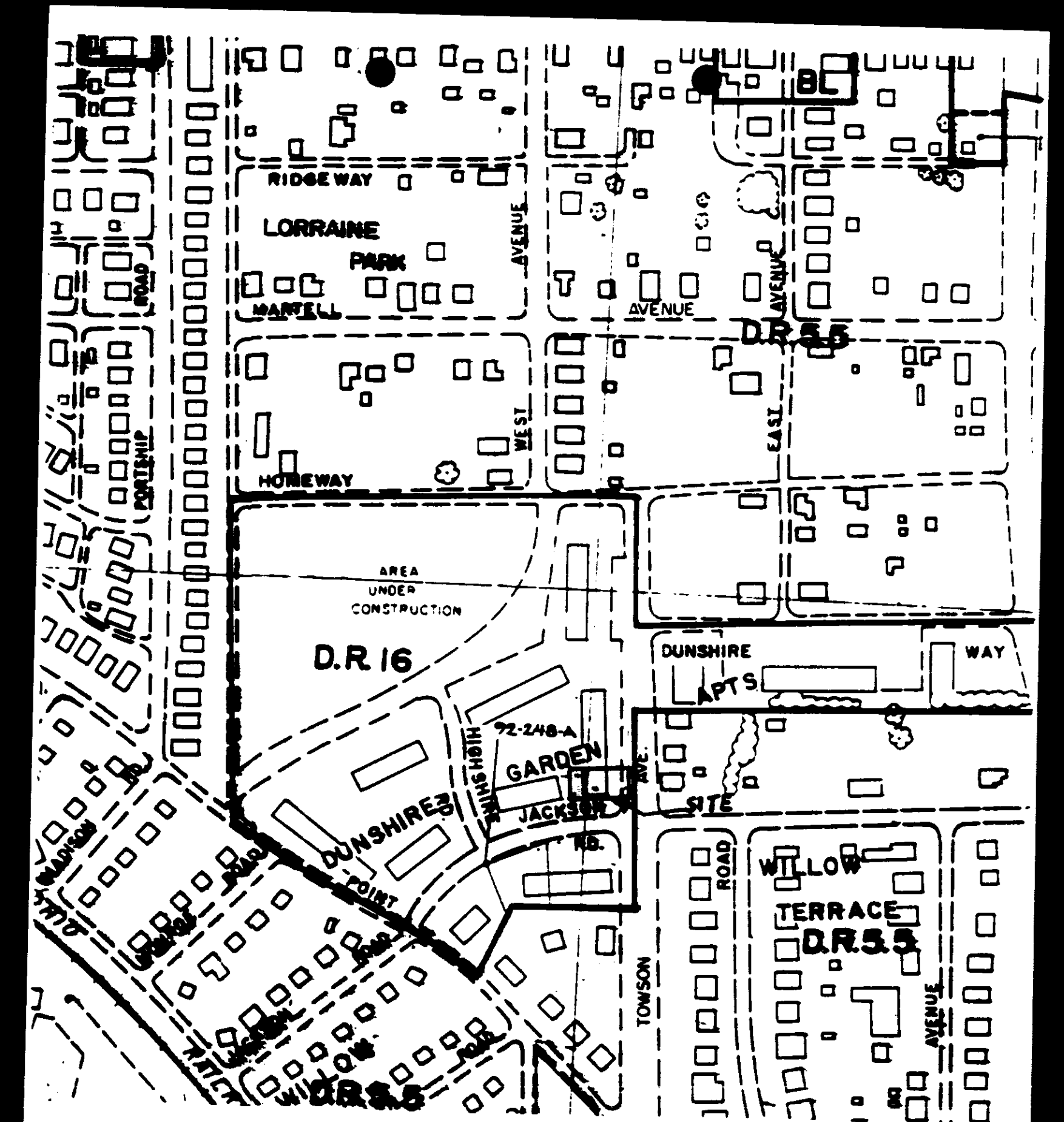
STREETS AND/OR ROADS SHOWN HEREON AND MENTION THEREOF IN DEEDS ARE FOR PURPOSE OF DESCRIPTION ONLY AND THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE. THE FEE SIMPLE TITLE TO THE BEDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED IN WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

SURVEYOR
H. MALMUD & ASSOC.,
INC.

6615 MEADOW HTS. RD.
RANDALLSTOWN MD. 21133
Telephone (301) 655-0465

94-237-SPHA

ITEM #233



Zoning Map

Scale
1"=300'

Location
Dunshire

SHEET
S.E.
3-E

94-237-SPHA

ITEM #233

